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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOHN DOE, an individual,) CV 19-00750-RSWL-SSx
Plaintiff,)
v.) ORDER re: Defendant
KEVIN SPACEY FOWLER, an) Fowler's Motion for
individual, M. PROFITT) Misjoinder [26];
PRODUCTIONS, INC., a) Plaintiff's Motion to
California Corporation, and) Remand [21]; Plaintiff's
DOES 1-9, inclusive,) Motion to Proceed
Defendants.) Anonymously [19]; and
Defendant Fowler's) Motion to Dismiss, or,
Motion to Dismiss, or,) Alternatively, to
Alternatively, to) Require a More Definite
Require a More Definite) Statement [22]
Statement [22]

Currently before the Court is Defendant Kevin Spacey Fowler's ("Defendant") Motion for Order of Misjoinder re Newly-Named Defendant M. Profitt Productions, Inc. ("Profitt Productions") [26]; Plaintiff John Doe's ("Plaintiff") Motion to Remand [21]; Plaintiff's Motion to Proceed Anonymously [19]; and Defendant's Motion to Dismiss, or, Alternatively, to Require a More Definite Statement [22]. Having

1 reviewed all papers submitted pertaining to the
2 Motions, the Court **NOW FINDS AND RULES AS FOLLOWS:** the
3 Court **GRANTS** Defendant's Motion for Order of
4 Misjoinder; **DENIES** Plaintiff's Motion to Remand; **GRANTS**
5 Plaintiff's Motion to Proceed Anonymously; and **DENIES**
6 Defendant's Motion to Dismiss, or, Alternatively, to
7 Require a More Definite Statement.

I. BACKGROUND

A. Factual Background

10 Plaintiff is a resident of California, and has been
11 a massage therapist in and around the Los Angeles area
12 for more than 35 years. First Am. Compl. ("FAC") ¶ 7,
13 ECF No. 14. Plaintiff has professional clientele,
14 including actors and models. *Id.* Defendant is a
15 famous actor. *Id.* ¶ 4. While Plaintiff alleges that
16 Defendant is a Los Angeles resident, Defendant asserts
17 that he is a resident of Maryland. Notice of Removal ¶
18 6, ECF No. 1. On or about October 2016, Plaintiff was
19 hired to provide massage services to Defendant at a
20 private residence in Malibu, California (the
21 "Residence"). FAC ¶ 10. Plaintiff alleges that during
22 the course of the massage appointment, Defendant
23 assaulted and battered Plaintiff by forcing Plaintiff
24 to touch Defendant's genitalia and attempting to force
25 a kiss on Plaintiff. *Id.* ¶¶ 16-23.

26 Profitt Productions, a California corporation, is a
27 loan-out company of which Defendant serves as the Chief
28 Executive Officer, Secretary, Chief Financial Officer,

1 and as an employee. Id. ¶ 5. Plaintiff believes that
2 at all times relevant to this complaint, Defendant was
3 performing and receiving services through Profitt
4 Productions, and acting as, on behalf of, and for the
5 benefit of, Profitt Productions. Id. ¶ 5. When
6 Plaintiff arrived at the Residence, there were film
7 production trucks and trailers parked on or nearby the
8 property, on which filming activity appeared to be in
9 process. Id. ¶ 11. Plaintiff alleges that the
10 Residence was rented by Profitt Productions to be used
11 by Defendant as a dwelling place, location for
12 massages, and for filming purposes. Id. ¶ 12. As
13 such, Plaintiff alleges that he was hired through or
14 for the benefit of Profitt Productions. Id. Plaintiff
15 believes that Defendant had such an extensive history
16 of similar behavior with other male massage therapists,
17 that Profitt Productions and Does 1-9, including the
18 unknown male who made the appointment, should have
19 known that Plaintiff was in danger. Id.

20 **B. Procedural Background**

21 On September 27, 2018, Plaintiff filed his
22 Complaint against Defendant in Los Angeles Superior
23 Court alleging sexual battery, gender violence,
24 battery, assault, intentional infliction of emotional
25 distress, and false imprisonment. Notice of Removal ¶
26 1; id., Ex. 1, Compl., ECF No. 1-1. Defendant was not
27 served until January 3, 2019, and on January 31, 2019,
28 Defendant removed this Action to this Court on the

1 basis of diversity jurisdiction. Id. ¶ 13. On
2 February 7, 2019, Defendant filed a Motion to Dismiss
3 [8] Plaintiff's claim for false imprisonment
4 specifically, as well as the entire action, because
5 Plaintiff filed under a pseudonym. On February 19,
6 2019, Plaintiff filed his First Amended Complaint [14]
7 in which he remained under the pseudonym John Doe, but
8 dropped the false imprisonment claim and added Profitt
9 Productions and Does 1-9 as defendants.

10 On March 1, 2019, Plaintiff filed a Motion to
11 Proceed Anonymously [19]. On March 4, 2019, Plaintiff
12 filed a Motion to Remand [21], arguing that adding
13 Profitt Productions and Does 1-9 as new defendants
14 defeats diversity. On March 5, 2019, Defendant filed a
15 Motion for Order of Misjoinder of the Newly-Named
16 Defendant Profitt Productions [26]. That same day,
17 Defendant again filed a Motion to Dismiss, or,
18 Alternatively, to Require a More Definite Statement as
19 to Plaintiff's identity [22]. Both parties timely
20 opposed each other's Motions, and both parties timely
21 replied.

22 II. DISCUSSION

23 A. Defendant's Request for Judicial Notice

24 Defendant requests that the Court take judicial
25 notice of screenshots from the website of Plaintiff's
26 counsel, Genie Harrison Law Firm, APC, which are
27 attached as Exhibit A to the Declaration of Jay P.
28 Barron In Support of Defendant's Motion to Dismiss

1 ("Barron Decl."). Def.'s Req. for Judicial Notice
2 ("RJN"), ECF No. 23. Courts routinely take judicial
3 notice of documents found on the internet. See, e.g.,
4 Rearden LLC v. Rearden Commerce, Inc., 597 F. Supp. 2d
5 1006, 1013 n. 3 (N.D. Cal. 2009) (taking judicial
6 notice of the contents of a webpage listing a company's
7 office locations); Caldwell v. Caldwell, 420 F. Supp.
8 2d 1102, 1105 n. 3 (N.D. Cal. 2006) (granting judicial
9 notice of the UC Berkeley Museum of Paleontology
10 website), aff'd, 545 F. 3d 1126 (9th Cir. 2008).
11 Accordingly, the Court **GRANTS** Defendant's Request for
12 Judicial Notice.

13 **B. Defendant's Motion for Misjoinder**

14 Plaintiff's FAC seeks to join Profitt Productions
15 as a defendant in this Action. Defendant requests that
16 the Court reject Plaintiff's attempted joinder of
17 Profitt Productions, and dismiss it as a defendant,
18 arguing that Plaintiff only added Profitt Productions,
19 a California corporation, to defeat diversity.

20 1. Appropriate Legal Standard

21 As a preliminary matter, Plaintiff argues that the
22 proper legal standard is Federal Rule of Civil
23 Procedure ("Rule") 15(a)(1), which allows a party to
24 amend its pleading once as a matter of course 21 days
25 after service or 21 days after service of a responsive
26 pleading. Fed. R. Civ. P. 15(a)(1). Plaintiff
27 maintains that because his FAC was made within the
28 timely constraints provided by the rule, the joinder is

proper. Defendant responds that the proper standard to apply is 28 U.S.C. § 1447(e), which explains that: “[I]f after removal the plaintiff seeks to join additional defendants whose joinder would destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State court.”

The “decision regarding joinder of a diversity destroying defendant is left to the discretion of the district court.” Newcombe v. Adolf Coors Co., 157 F.3d 686, 691 (9th Cir. 1998). District courts throughout the Ninth Circuit have steadily held that the discretionary standard under Section 1447(e) is the proper rule by which to analyze post-removal joinder of non-diverse defendants. See, e.g., Walpert v. Jaguar Land Rover North Am., LLC, No. CV 18-8998-FJW (MAAx), 2018 WL 6855985, at *2 (C.D. Cal. Dec. 17, 2018) (applying the five Section 1447(e) factors); Jackson v. Family Dollar, Inc., No. CV 18-5126-GW(MRWX), 2018 WL 3701962, at *2 (C.D. Cal. Aug. 2, 2018) (acknowledging the vast amount of courts who applied the discretionary standard in post-removal joinder of non-diverse parties); San Jose Neurospine v. Cigna Health & Life Ins. Co., No. 16-CV-05061-LHK, 2016 WL 7242139, at *6-7 (N.D. Cal. Dec. 15, 2016) (“Thus, even though Plaintiff has already filed its FAC, the Court must still consider under 28 U.S.C. § 1447(e)”). Courts have applied this standard, as opposed to Rule 15’s

1 permissive standard, because "[t]o apply the permissive
2 standard of Rule 15(a) in this situation would allow a
3 plaintiff to improperly manipulate the forum of an
4 action". Clinco v. Roberts, 41 F. Supp. 2d
5 1080, 1086-87 (C.D. Cal. 1999). As such, this Court
6 joins the overwhelming majority of courts within this
7 district and finds that the discretionary standard
8 under Section 1447(e) must be applied.

9 2. Section 1447(e) Factors

10 Under Section 1447(e) courts consider the following
11 factors: "(1) whether the party sought to be joined is
12 needed for just adjudication and would be joined under
13 Federal Rule of Civil Procedure 19(a); (2) whether the
14 statute of limitations would prevent the filing of a
15 new action against the new defendant in state court;
16 (3) whether there has been an unexplained delay in
17 seeking to join the new defendant; (4) whether
18 plaintiff seeks to join the new party solely to defeat
19 federal jurisdiction; (5) whether denial of the joinder
20 would prejudice the plaintiff; and (6) the strength of
21 the claims against the new defendant. See Boon v.
22 Allstate Ins. Co., 229 F. Supp. 2d 1016, 1020 (C.D.
23 Cal. 2002) (citing Clinco, 41 F. Supp. 2d at 1082).

24 a. *Strength of the Claim*

25 The most significant factor here is whether the
26 claims asserted against the non-diverse party have
27 merit. See San Jose Neurospine, 2016 WL 7242139, at
28 *11 (citing Clinco, 41 F. Supp. 2d at 1083). The

1 existence of a facially valid claim against the non-
2 diverse party weighs in favor of permitting joinder.
3 Forward-Rossi v. Jaguar LandRover N. Am., LLC, No. 216-
4 CV-00949-CAS-KSX, 2016 WL 339625, at *4 (C.D. Cal. June
5 13, 2016) (citation omitted).

6 Plaintiff joins Profitt Productions in his gender
7 violence claim against Defendant. FAC ¶¶ 58-60.
8 Plaintiff alleges that Profitt Productions is liable
9 because Plaintiff believes that Profitt Productions
10 rented the Residence on behalf of Defendant as a
11 dwelling place, as a location for massages, and for
12 filming purposes. Id. ¶ 12. Plaintiff also alleges
13 that based on information and belief, Defendant is an
14 officer and employee of Profitt Productions. Id. ¶ 5.
15 Plaintiff asserts his gender violence claim under Cal.
16 Civ. Code. § 52.4, which requires "the use, attempted
17 use, or threatened use of physical force against the
18 person or property of another." Section 52.4 expressly
19 notes that it "does not establish any civil liability
20 of a person because of his or her status as an
21 employer, unless the employer personally committed an
22 act of gender violence." Plaintiff attempts to extend
23 the scope of this statute to Profitt Productions,
24 alleging that Profitt Productions "personally and
25 directly committed the acts of gender violence to
26 Plaintiff" Pl.'s Opp'n 11:25-27.

27 The Court disagrees with Plaintiff's interpretation
28 of this statute. First, Plaintiff fails to cite any

1 authority expressly holding that a corporation,
2 employer, or entity may be responsible for personally
3 committing acts of gender violence. In fact, courts
4 within this district have held the exact opposite. See
5 Doe v. Starbucks, Inc., No. SACV 08-0582 AG CWX, 2009
6 WL 5183773, at *10 (C.D. Cal. Dec. 18, 2009)
7 (dismissing a claim against a corporation after finding
8 that a gender violence claim under Cal. Civ. Code. §
9 52.4 cannot extend to employers). Further, this claim
10 cannot extend to Profitt Productions even if Plaintiff
11 alleges that Defendant is "in every practical sense"
12 Profitt Productions. Pl.'s Opp'n at 4:12-14. Courts
13 have declined to extend liability to corporations run
14 by individual defendants already accused of acts of
15 gender violence. See Canosa v. Ziff, No. 18 CIV. 4115
16 (PAE), 2019 WL 498865, at *14 (S.D.N.Y. Jan. 28, 2019)
17 (analyzing Cal. Civ. Code. § 52.4 and stating that "a
18 'responsible party' does not include an 'employer' who
19 was not itself an active perpetrator of gender
20 violence"); Clinco, 41 F. Supp. 2d at 1084 (denying
21 joinder in part because plaintiff likely could not
22 prevail on claim against non-diverse party even if he
23 found evidence to support his allegations made on
24 "information and belief").

25 Because Plaintiff already has brought this claim
26 against Defendant, and because Profitt Productions
27 could not have itself, as a corporation, personally and
28 directly committed the alleged acts of gender violence,

1 the Court finds that Plaintiff's claim against Profitt
2 Productions is without merit and facially invalid.
3 Thus, this factor weighs in favor of denying joinder.

4 b. *Necessity of Party*

5 Rule 19(a) requires joinder of parties whose
6 absence would prevent complete relief or impede the
7 party's protection of interests. If a party is
8 necessary under this rule, they must be joined if
9 feasible. When deciding whether to permit joinder
10 under this factor, courts consider the degree of
11 involvement by the defendant in the occurrences that
12 gave rise to the cause of action. Boon, 229 F. Supp.
13 2d at 1022. As explained, Plaintiff does not plead
14 sufficient facts regarding Profitt Productions' direct
15 involvement. The only allegations in the FAC regarding
16 Profitt Productions is its status as Defendant's loan-
17 out company, and Plaintiff's allegations that it rented
18 the Residence. However, Defendant stated in his
19 declaration that he did not participate with any
20 filming projects through Profitt Productions during or
21 around the time of the alleged incident, and that
22 Profitt Productions did not rent any house in Malibu
23 for Defendant to stay in during this time. Declaration
24 of Kevin Spacey Fowler ("Fowler Decl.") ¶¶ 3-4, ECF No.
25 26-2. Plaintiff did not provide any evidence or
26 argument to refute Defendant's statements.
27 Consequently, Plaintiff does not adequately allege or
28 argue that Profitt Productions is a necessary party in

1 this Action, and as such, this factor weighs in favor
2 of denying joinder.

3 c. *Statute of Limitations*

4 The next factor is whether the statute of
5 limitations would affect a plaintiff's ability to bring
6 a separate suit against the new party. Clinco, 41 F.
7 Supp. 2d at 1083. The statute of limitations for
8 gender violence is three years. Cal. Civ. Code §
9 52.4(b). Since this incident is alleged to have
10 occurred in October of 2016, Plaintiff is not barred
11 from bringing a separate suit against the new party.
12 FAC ¶ 10. Thus, this factor supports denying joinder.

13 d. *Timeliness*

14 The Court must also consider whether there was
15 undue delay in adding the non-diverse party. Clinco,
16 41 F. Supp. 2d at 1083. Plaintiff filed his FAC on
17 February 19, 2019, almost five months after filing the
18 initial Complaint, and less than a month after removal.
19 The Court finds this is not an unreasonable amount of
20 time. See Forward-Rossi v. Jaguar Land Rover North
21 America, LLC, No. 2:16-cv-00949-CAS (Ksx), 2016 WL
22 3396925, at *3 (C.D. Cal. June 13, 2016) (holding that
23 delay of four months after action was removed was not
24 unreasonable); see also Yang v. Swissport USA, Inc.,
25 No. C 09-03823 SI, 2010 WL 2680800, at *4 (N.D. Cal.
26 2010) (granting plaintiffs' motion to amend filed nine
27 months after removal where "no dispositive motions have
28 been filed, and the discovery completed thus far

1 [would] be relevant whether the case is litigated in
2 [federal] court or state court"). Thus, this factor
3 weighs in favor of allowing joinder.

4 e. *Motive for Joinder*

5 The motive must be looked at with particular care
6 "in removal cases, when the presence of a new defendant
7 will defeat the court's diversity jurisdiction and will
8 require a remand." Clinco, 41 F. Supp. 2d at 1083
9 (quoting Desert Empire Bank v. Ins. Co. of No. America,
10 623 F.2d 1371, 1376 (9th Cir. 1980)). Courts consider
11 three factors when analyzing motive within this
12 context: (1) whether the plaintiff was aware of the
13 removal at the time of amendment; (2) whether the
14 plaintiff's amendment contains only minor changes to
15 the original complaint; and (3) whether the plaintiff
16 has provided an explanation for its delay in asserting
17 claims against the non-diverse defendant. San Jose
18 Neurospine, 2016 WL 7242139, at *10-11.

19 Here, Plaintiff amended his Complaint a couple of
20 weeks after Defendant removed the case, thus Plaintiff
21 was aware of the removal. Second, Plaintiff's FAC
22 contains two changes: (1) Plaintiff removed his false
23 imprisonment claim, and (2) Plaintiff added Profitt
24 Productions and Does 1-9 to his gender violence claim.
25 Other than these two changes, Plaintiff does not allege
26 any additional facts and the FAC remains substantially
27 similar to the original Complaint. Forward-Rossi, 2016
28 WL 3396925, at *4 ("Courts have inferred an improper

1 motive where the plaintiff's proposed amended complaint
2 contains only minor or insignificant changes to the
3 original complaint."). Third, Plaintiff argues that
4 once he discovered the existence of Profitt
5 Productions, he promptly joined the entity. Opp'n at
6 10:22-24. However, Plaintiff fails to explain why he
7 took the time that he did to learn about the existence
8 of Profitt Productions. Indeed, Plaintiff did not add
9 any factual allegations pertaining to Profitt
10 Productions and fails to assert a valid legal claim
11 against Profitt Productions. "In light of this, one
12 could justifiably suspect that [Plaintiff's] amendment
13 of the complaint was caused by the removal rather than
14 an evolution of [Plaintiff's] case." Clinco, 41 F.
15 Supp. 2d at 1083. Thus, this factor does not support
16 joinder.

17 f. *Prejudice to Plaintiff*

18 The last factor considers whether Plaintiff will
19 suffer undue prejudice if joinder is denied. Boon, 229
20 F. Supp. 2d at 1025. Since the claim against Profitt
21 Productions is facially invalid, the Court does not
22 find that denying joinder will cause Plaintiff to
23 suffer undue prejudice. Even if Plaintiff did have a
24 valid claim against Profitt Productions, pursuing a
25 separate action against an unnecessary party in state
26 court does not on its own constitute prejudice. Id.
27 ("Thus, interests of judicial economy are not
28 unreasonably burdened by requiring plaintiff to pursue

1 any such indemnity claim in state court.") Having
 2 considered all of the factors, the Court finds that
 3 they weigh in favor of denying joinder. Thus, the
 4 Court **GRANTS** Defendant's Motion for Misjoinder and
 5 dismisses Profitt Productions as a defendant.¹

6 3. Leave to Amend

7 After a party amends a pleading as a matter of
 8 course, as Plaintiff did here, further amendment
 9 requires leave of court or consent of the adverse
 10 party. Fed. R. Civ. P. 15(a). Rule 15 instructs that
 11 "leave shall be freely given when justice so requires."
 12 Eminence Capital, LLC v. Aspeon, Inc., 316 F.3d 1048,
 13 1051 (9th Cir. 2003). However, "[c]ourts have
 14 recognized that the usually liberal approach to
 15 amendment does not apply when a plaintiff amends its
 16 complaint after removal to add a diversity-destroying
 17 defendant." Ramirez v. Charter Commc'ns, LLC, No. EDCV
 18 19-108-R, 2019 WL 1376744, at *1 (C.D. Cal. Mar. 26,
 19 2019) (considering the Section 1447(e) factors and
 20 holding that the court "is persuaded that [p]laintiff
 21 has attempted to improperly manipulate the forum of
 22 this action and, therefore, should not be permitted to
 23 amend the [c]omplaint").

24 Here, Plaintiff requests that if the Court grants
 25

26 ¹ Defendant requests that the Court also dismiss Does 1
 27 through 9, however as they are Doe defendants and unknown persons
 28 or entities at this time, retaining them does not defeat
 diversity. Without more, the Court **DENIES** Defendant's request to
 dismiss the Doe defendants at this time.

1 Defendant's Misjoinder Motion, it allow Plaintiff leave
2 to amend his FAC to allege additional facts showing
3 Profitt Productions to be a necessary and proper party.
4 As explained above, the Court finds that the Section
5 1447(e) factors weigh in favor of denying joinder of
6 Profitt Productions. Given that the Court finds
7 Plaintiff does not have a legally valid gender violence
8 claim against Profitt Productions, and that Plaintiff
9 likely added Profitt Productions solely to defeat
10 diversity, the Court finds any amendment would be
11 futile. Accordingly, the Court **DENIES** Plaintiff's
12 request for leave to amend on this basis.

13 **C. Plaintiff's Motion to Remand**

14 Civil actions may be removed from state court if
15 the federal court has original jurisdiction. See
16 Syngenta Crop Prot., Inc. v. Henson, 123 S. Ct. 366,
17 370 (2002) ("Under the plain terms of § 1441(a), in
18 order properly to remove [an] action pursuant to that
19 provision, . . . original subject-matter jurisdiction
20 [must] lie[] in the federal courts."). Diversity
21 jurisdiction exists in all civil actions between
22 citizens of different states where the amount in
23 controversy exceeds \$75,000, exclusive of interest and
24 costs. 28 U.S.C. § 1332. There must be complete
25 diversity of citizenship, meaning "each of the
26 plaintiffs must be a citizen of a different state than
27 each of the defendants." Morris v. Princess Cruises,
28 Inc., 236 F.3d 1061, 1067 (9th Cir. 2001) (citing

1 Caterpillar Inc. v. Lewis, 519 U.S. 61, 68 (1996)).

2 "The burden of establishing jurisdiction falls on
3 the party invoking the removal statute, which is
4 strictly construed against removal." Sullivan v. First
5 Affiliated Sec., Inc., 813 F.2d 1368, 1371 (9th Cir.
6 1987) (internal citations omitted). Courts resolve all
7 ambiguities "in favor of remand to state court."
8 Hunter v. Philip Morris USA, 582 F.3d 1039, 1042 (9th
9 Cir. 2009) (citing Gaus v. Miles, Inc., 980 F.2d 564,
10 566 (9th Cir. 1992)). A removed case must be remanded
11 "[i]f at any time before final judgment it appears that
12 the district court lacks subject matter jurisdiction."
13 28 U.S.C. § 1447(c).

14 Defendant removed this Action on the basis of
15 diversity jurisdiction. In his Notice of Removal,
16 Defendant argues that Plaintiff is a resident of
17 California, and Defendant is a resident of Maryland.
18 Notice of Removal ¶¶ 5-6. Defendant further argues
19 that this case more likely than not exceeds \$75,000 as
20 the Complaint seeks statutory, compensatory, and
21 punitive damages against Defendant, with compensatory
22 damages including "physical injury and emotional pain
23 and distress," "economic harm, loss of earnings, and
24 other damages." Id. ¶ 10.

25 Plaintiff seeks to remand this case on the sole
26 basis that with Profitt Productions added as a
27 defendant, complete diversity no longer exists because
28 Profitt Productions is incorporated in California and

1 maintains its principal place of business in Los
2 Angeles. Pl.'s Mot. to Remand at 4-5, ECF No. 21;
3 Declaration of Mary Olszewska ("Olszewska Decl.") ¶ 3,
4 ECF No. 21-1. Because the Court already determined
5 that Profitt Productions cannot be joined to this
6 Action, diversity jurisdiction is preserved and there
7 is no remaining basis to remand this case. Thus, the
8 Court **DENIES** Plaintiff's Motion to Remand.

9 **D. Plaintiff's Motion to Proceed Anonymously**

10 "The normal presumption in litigation is that
11 parties must use their real names." Doe v. Kamehameha
12 Schools/Bernice Pauahi Bishop Estate, 596 F.3d 1036,
13 1042 (9th Cir. 2010). Despite this presumption, "a
14 party may preserve his or her anonymity in judicial
15 proceedings in special circumstances when the party's
16 need for anonymity outweighs prejudice to the opposing
17 party and the public's interest in knowing the party's
18 identity." Does I thru XXIII v. Advanced Textile
19 Corp., 214 F.3d 1058, 1068 (9th Cir. 2000). Plaintiff
20 seeks to proceed anonymously because in this particular
21 case, involving a high-profile celebrity, Plaintiff
22 fears disclosure will result in a loss of his clientele
23 and impair his ability to make a living, as well as put
24 him at risk of physical safety. Plaintiff further
25 argues that anonymity is necessary to protect against
26 victim shaming and humiliation given the nature of his
27 claims and the heightened media and tabloid attention
28 this case will receive. Pl.'s Mot. to Proceed

1 Anonymously 3:5-25, ECF No. 19.

2 Courts have permitted parties to proceed
3 anonymously when "anonymity is necessary to preserve
4 privacy in a matter of highly personal nature."

5 Advanced Textile, 214 F.3d at 1068. Courts in the
6 Ninth Circuit have regularly permitted plaintiffs
7 alleging sexual assault to proceed anonymously because

8 the nature of such claims constitute a special
9 circumstance. See, e.g., Doe K.G. v. Pasadena Hosp.

10 Ass'n, Ltd., No. 2:18-CV-08710-ODW (MAAx), 2019 WL
11 1612828, at *1 (C.D. Cal. Apr. 15, 2019) (finding that
12 the "public's interest in allowing alleged victims of
13 sexual assault to proceed anonymously outweighs any
14 public interest in the plaintiff's identity"); Doe v.

15 Pasadena Hosp. Ass'n, Ltd., No. 2:18-CV-09648-DDP
16 (Skx), 2018 WL 6831533, at *2 (C.D. Cal. Dec. 26, 2018)

17 (same); Doe v. United Airlines, Inc., No.

18 2:17-CV-2825-RFB-NJK, 2018 WL 3997258, at *2 n.1 (D.

19 Nev. Aug. 21, 2018) (citation omitted) ("[C]ase law
20 within the Ninth Circuit is clear and [c]ourts have
21 denied a sexual assault victim's request to proceed
22 pseudonymously only in rare and unique

23 circumstances."); N.S. by & through Marble v. Rockett,

24 No. 3:16-CV-2171-AC, 2017 WL 1365223, at *2 (D. Or.

25 Apr. 10, 2017) (collecting cases). See also Jordan v.

26 Gardner, 986 F.2d 1521, 1525 n.4 (9th Cir. 1993) ("In

27 keeping with the tradition of not revealing names of

28 the victims of sexual assault, we use initials here . .

1 . . .").

2 Here, Plaintiff's FAC sufficiently demonstrates
3 that his allegations of sexual assault and battery
4 present special circumstances of a personal nature.
5 Plaintiff's vulnerability to humiliation, harassment,
6 and threats, is further exacerbated by the nature of
7 Defendant's status as a high-profile celebrity and the
8 media attention that comes with it. The Court finds
9 that anonymity is necessary to protect Plaintiff's
10 privacy and to protect against any further trauma.

11 The Court further finds that there is little
12 prejudice to Defendant at this stage. The Court must
13 "determine the precise prejudice at each stage of the
14 proceedings to the opposing party, and whether
15 proceedings may be structured so as to mitigate that
16 prejudice." Advanced Textile, 214 F.3d at 1067.
17 Defendant argues that he is inhibited by Plaintiff's
18 refusal to participate in the Rule 26(f) conference,
19 however the Court already addressed this in ruling on
20 Defendant's *Ex Parte* Application for Order to Set
21 Deadlines Under Rule 26 [31]. There, the Court denied
22 Defendant's Application, finding that it is reasonable
23 to delay the Rule 26(f) conference given that
24 Plaintiff's Motion to Remand has been pending before
25 the Court. Order re *Ex Parte* Application 4-5, ECF No.
26 34. Plaintiff's anonymity is irrelevant to the Rule
27 26(f) conference, as the only issue holding up the
28 conference was whether the Court has jurisdiction. Now

1 that the Court has ruled that it retains subject matter
2 jurisdiction, the parties are free to continue into
3 discovery. Defendant also argues that anonymity
4 prevents Defendant's ability to conduct third-party
5 discovery for any possible unknown parties with
6 information. However, the FAC provides sufficient
7 detail as to the time, location, and facts surrounding
8 the alleged assault for Defendant to conduct sufficient
9 discovery at this stage. Although the FAC is vague as
10 to the actual date, and only alleges that the incident
11 occurred in October 2016, because this involved the
12 hiring of Plaintiff's services, Defendant likely has
13 records or bank statements in his possession that can
14 provide him with further information such as where
15 Plaintiff worked at the time. As such, the Court is
16 unpersuaded that any prejudice outweighs the need for
17 Plaintiff's anonymity.

18 Finally, as evidenced by the majority of courts in
19 this circuit permitting anonymity for alleged sexual
20 assault victims, the "public generally has a strong
21 interest in protecting the identities of sexual assault
22 victims so that other victims will not be deterred from
23 reporting such crimes." Doe v. Penzato, No. CV10-5154
24 MEJ, 2011 WL 1833007, at *3 (N.D. Cal. May 13, 2011)
25 (citations omitted). The Court finds that the need for
26 Plaintiff's anonymity outweighs the prejudice to
27 Defendant and the public's interest in knowing his
28 identity at this stage. However, the Court

1 acknowledges that maintaining anonymity throughout the
2 entirety of this case would prevent a just resolution,
3 as Defendant will need to know Plaintiff's identity at
4 some point either during discovery or before this case
5 proceeds to trial. Because the Rule 26(f) conference
6 has yet to occur the Court is satisfied to retain
7 anonymity at this early stage, but if anonymity hinders
8 Defendant's ability to adequately conduct discovery at
9 a later stage, Defendant may seek relief from this
10 Court. Accordingly, the Court **GRANTS** Plaintiff's
11 Motion to Proceed Anonymously.

12 **E. Defendant's Motion to Dismiss, or, Alternatively, to**
13 **Require a More Definite Statement**

14 Defendant argues that Plaintiff's FAC should be
15 dismissed in its entirety because Plaintiff cannot
16 plead anonymously. Defendant essentially repeats his
17 arguments made in opposition to Plaintiff's Motion to
18 Proceed Anonymously here in this context. Def.'s Mot.
19 to Dismiss 1-10, ECF No. 22. Because the Court has
20 already found that Plaintiff can proceed anonymously at
21 this stage, the Court need not address these arguments.
22 Defendant further argues that if the Court does not
23 dismiss Plaintiff's claims, it should require Plaintiff
24 to amend his pleading to provide a more definite
25 statement by disclosing his identity. Id. at 11:14-16.
26 Defendant does not argue that the FAC should be
27 dismissed for any other reason as to Defendant. The
28 only other argument Defendant makes is that the gender

1 violence claim against Profitt Productions must be
2 dismissed, however the Court already denied joinder of
3 Profitt Productions as a defendant. Thus, for the same
4 reasons already discussed as to Plaintiff's Motion to
5 Proceed Anonymously and Defendant's Motion for
6 Misjoinder, the Court **DENIES** Defendant's Motion to
7 Dismiss, or, Alternatively, to Require a More Definite
8 Statement.

III. CONCLUSION

10 Based on the foregoing reasons, the Court **GRANTS**
11 Defendant's Motion for Misjoinder [26]; **DENIES**
12 Plaintiff's Motion to Remand [21]; **GRANTS** Plaintiff's
13 Motion to Proceed Anonymously [19]; and **DENIES**
14 Defendant's Motion to Dismiss, or, Alternatively, to
15 Require a More Definite Statement [22]. Because the
16 Court granted Defendant's Motion for Misjoinder, the
17 newly-named Defendant M. Profitt Productions is hereby
18 dismissed without prejudice and the allegations against
19 it are stricken. Plaintiff is to file a Second Amended
20 Complaint within 21 days of this Order that eliminates
21 M. Profitt Productions. No other substantive changes
22 or allegations are permitted in this amendment.

24 || IT IS SO ORDERED.

26 | DATED: May 14, 2019 s/ RONALD S.W.LEW

HONORABLE RONALD S.W. LEW
Senior U.S. District Judge